IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2953 of 2003
With
SPECIAL CIVIL APPLICATIONS No. 2965 and 5584 of 2003.

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KESHAV KALINDI CO-OP. HOUSING SOCIETY LTD. & Ors.
Versus
STATE OF GUJARAT

Appearance:
1. Special Civil Application No. 2953 of 2003
MR JAGDISH H MEHTA for Petitioner No. 1-2
MR PRASHANT MANKAD for Petitioner No. 1-2
Mr. MG Nagarkar/Mr. RM Chhaya for AMC
Mr. DN Patel for AUDA
Mr. AD Oza, Government Pleader for State.

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT

and

MR.JUSTICE K.A.PUJ

Date of decision: 01/05/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

Rule. Service of Rule is waived by learned advocate Mr. KB Pujara for Ahmedabad Electricity Company; learned advocate Mr. RM Chhaya/Mr. MG Nagarkar for Ahmedabad Municipal Corporation; learned advocate Mr. DN Patel for Ahmedabad Urban Development Authority; and Mr. AD Oza, learned Government Pleader for the State.

2. In this group of 3 petitions, common questions of common interest are involved and therefore the learned counsel appearing for the respondents have already agreed and waived the service of Rule, and upon joint request and considering the peculiar facts and special circumstances obtainable in this group of matters, they are being disposed of by this common Judgment finally. The entire group of petitions pertains to "High Rise Buildings" situated in the City of Ahmedabad and also within the precincts of Ahmedabad Municipal Corporation (AMC) and Ahmedabad Urban Development Authority (AUDA), in which Fire Safety Systems have been installed and upon its inspection by the Ahmedabad Municipal Corporation authorities, "No Objection Certificate" has also been issued. We have heard the learned counsel for the parties.

3. After having heard the learned counsel appearing for the parties and considering the peculiar facts and special circumstances, we propose to dispose of finally this group of petitions with the following directions, on the same lines and pattern given by this Court in Special Civil Application No. 497 of 2001 and other allied matters on 5-11-2001 which were pertaining to "Low Rise Buildings".

DIRECTIONS

(i) All the petitioners, in this group of petitions, who have not applied for the grant of Building Use Permission, after complying with the prescribed Fire Safety Norms for High Rise

Buildings, and pursuant to the earlier interim orders of this Court, shall make an application in the prescribed form with requisite and required particulars and data to AMC or AUDA on or before 30th June 2003, if not so far applied, with a copy to AEC, and upon making such an application, AEC will be at liberty to supply electricity to the apartments and houses of the petitioners in this group of petitions, within the period of three months on usual terms and conditions by charging requisite fees. It is also clarified that the application to AEC may not be necessary in cases where electricity supply is earlier provided, and notice for disconnection of supply is issued. The petitioners shall also file an undertaking in writing before this Court within 10 days from today with a copy to the AEC, AMC and AUDA;

(ii) The AMC and AUDA, as the case may be, shall have to take a decision in respect of such applications for the purpose of Building Use Permission of the petitioners, on or before 31st October 2003 in accordance with law and rules applicable for the grant of such permission by a speaking order;

(iii) In the event of rejection of Building Use Permission, for whatever reason, it shall be incumbent upon the authority to send such a Report to AEC within one week from such rejection and the intimation of the same shall be sent to the petitioners concerned;

(v) Upon receipt of the Report from AMC and/or AUDA, with regard to the rejection of the Building Use Permission to the petitioner or petitioners, the AEC shall, before disconnecting electric supply, serve a notice to such petitioners granting them 30 days' time from the date of receipt of notice, with a view to facilitate them with an opportunity for making alternative arrangement or to avail permissible legal redressal.

4. In all these matters, it is clarified, for the removal of doubt, if any, that the notices earlier issued by the authorities shall not be acted upon and implemented by which time the authorities are directed to decide the applications made and/or to be made by the petitioners, and it will be open for the authorities for

further action after consideration of the applications of the petitioners and take permissible legal actions.

5. This batch of petitions shall stand finally disposed of with aforesaid directions. However, we clarify, with a view to remove doubt, that in case of any difficulty to any party, it will be open for such party to approach or move this Court. Upon request, direct service is granted.

6. Rule is made absolute to the above extent without any order as to costs.

[J.N. Bhatt, Actg. C.J.]

rmr. [K.A. Puj, J.]